

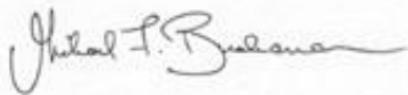
UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

----- x  
JOSEPH PEPITONE, : 6:21 Civ. 00781 (LEK) (ATB)  
: :  
Plaintiff, : :  
: :  
- against - : :  
: :  
NATIONAL BASEBALL HALL OF FAME : :  
AND MUSEUM, INC., : :  
: :  
Defendant. : :  
----- x

**DEFENDANT NATIONAL BASEBALL HALL OF FAME AND MUSEUM'S  
NOTICE OF MOTION TO DISMISS THE COMPLAINT WITH PREJUDICE**

PLEASE TAKE NOTICE that Defendant National Baseball Hall of Fame and Museum, Inc. (the "Baseball Hall of Fame"), by and through its undersigned counsel, will and does hereby move this Court before the Honorable Judge Lawrence E. Kahn, at the United States District Court for the Northern District of New York, 445 Broadway, Albany, New York 12207, for an Order pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure dismissing the Complaint of Plaintiff Joseph Pepitone with prejudice for failure to state a claim upon which relief can be granted based on the application of judicial estoppel. The grounds for this motion are set forth in the accompanying Memorandum of Law in Support of the Baseball Hall of Fame's Motion to Dismiss as well as the accompanying Declaration of Michael F. Buchanan in Support of the Baseball Hall of Fame's Motion to Dismiss, and the exhibits affixed thereto.

Dated: August 20, 2021  
New York, New York

By: 

---

Michael F. Buchanan (Bar Roll #702975)  
Clinton W. Morrison (Bar Roll #702976)  
PATTERSON BELKNAP WEBB & TYLER LLP  
1133 Avenue of the Americas  
New York, NY 10036-6710  
P: (212) 336-2000  
F: (212) 336-2222  
E: [mfbuchanan@pbwt.com](mailto:mfbuchanan@pbwt.com)  
E: [cmorrison@pbwt.com](mailto:cmorrison@pbwt.com)

*Attorneys for Defendant National Baseball Hall of Fame and Museum, Inc.*

**CERTIFICATE OF SERVICE**

I, Michael F. Buchanan, hereby certify, pursuant to 28 U.S.C. § 1746, that on August 20, 2021, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will automatically send e-mail notification of such filing to all counsel of record.

Dated: August 20, 2021  
New York, New York

By:



---

Michael F. Buchanan (Bar Roll #702975)